GAS USE AGREEMENT;
AND LICENSE TO USE REAL PROPERTY LOCATED
AT THE FAUQUIER COUNTY SANITARY LANDFILL

This Gas Use Agreement and License to Use Real Property Located at the Fauquier County Sanitary Landfill ("Contract") is entered into by the Board of County Supervisors of Fauquier County, Virginia ("the Board"), a political subdivision of the Commonwealth of Virginia, and Fauquier County Landfill Gas, LLC, a Delaware limited liability company (the "Company"). This Contract is dated as of _____, 2002 (the "Commencement Date.'")

PRELIMINARY STATEMENT

The Board owns and operates the Fauquier County Sanitary Landfill, located in Fauquier County, Virginia and more fully described in Attachment A hereto (the "Landfill"). The Board desires to grant to the Company (i) an exclusive right to extract and use any and all gas elements from the Landfill, or that may be produced through syntheses of materials deposited in the Landfill (collectively, "LFG"), and (ii) all rights necessary to enter upon the Landfill to assist in the design and construction of a collection system, and to design, modify and construct or install and own, operate and maintain facilities to gather, draw, produce, process, and use and/or burn LFG, and to install, operate and maintain energy generation facilities fueled in whole by LFG, all pursuant to the terms of this Contract. The Company is a Delaware limited liability company authorized by the Virginia State Corporation Commission ("SCC") to conduct business in the Commonwealth and is in good standing with the SCC. The Company intends to gather and use LFG for the purpose of processing and using or selling LFG as a fuel for the generation of electricity or thermal energy from an Energy Recovery Facility to be designed, constructed and operated by the Company or the Company's Subgrantee.

NOW, THEREFORE, in consideration of their mutual covenants set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Board and the Company agree as follows:

I. **DEFINITIONS**.

A. Collection System: means the Pre-Existing Collection System and the New Collection System.

B. Commencement Date: means the date of the last party's signature to this Contract, which is the date this Contract shall be deemed effective and binding.

C. Commercial Operation Date: means the date the Energy Recovery Facility commences commercial operation, after notice by the Company to the Board of the satisfactory completion of start-up and testing procedures and integration with the LFGMS.

D. Energy Recovery Facility: means one or more electrical and/or thermal energy generating units to be designed and installed by the Company or any Subgrantee pursuant to the terms hereof, and that will be primarily fueled by LFG from the Landfill, together with any

transformers, switch gear, distribution lines, meters and related equipment necessary for the generation and delivery of energy to customers.

E. Flare: means one or more new or existing devices to burn or otherwise to destroy LFG produced from the Collection System that cannot be utilized in the Energy Recovery Facility.

F. Gas Rights: are as defined in Section 3.1 herein.

G. Hazardous Materials: means any oil or other petroleum products, pollutants, contaminants, toxic or hazardous substances or materials (including, without limitation, asbestos and PCBs), and any hazardous wastes or other materials from time to time regulated under any applicable statutes, regulations, or ordinances governing pollution or the protection of the environment including, but not limited to, the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Resource Conservation and Recovery Act of 1976, the Toxic Substances Control Act of 1976, and Virginia law, all as may be amended from time to time.

H. Landfill: is as defined in the Preliminary Statement herein, and is more specifically identified on Attachment A hereto.

I. Lender: means any person or entity providing at any time debt or equity financing capital to the Company and/or the Company's partners, members, corporate affiliates, subsidiaries, successors and assigns (including any Subgrantee) for any business purpose, and identified from time to time in writing by the Company to the Board, with each such writing including all Lenders as of the date thereof, along with applicable addresses for the purposes of notice hereunder.

J. Licenses: are as defined in Section 3.2 herein

K. The Company Documents: are as defined in Section 11.2(a) herein.

L. New Collection System: means the facilities constructed by the Company at the Landfill after the date of this Contract for the collection and/or extraction of LFG, including, without limitation, the wells (vertical and horizontal) drilled into the Landfill, well heads, interconnecting pipes, header pipe, condensate drips, and interconnections to the Production System, along with any ancillary materials and equipment, as they may be modified or repaired from time to time.

M. New Production System: means the facilities constructed by the Company or its Subgrantee at the Landfill after the date of this contract for the conveyance of LFG from the Collection System to the Energy Recovery Facility, including without limitation, the main header pipe through which a blower creates suction to draw LFG from the Collection System, then the blower, filters, meters and interconnections to (but not including) the Flair or the Energy Recovery Facility's fuel supply lines.

N. LFG: is as defined in the Preliminary Statement hereto.

O. LFGMS or Landfill Gas Management System: means the Collection System and the Production System.

P. Pre-existing Collection System: means the facilities already existing at the landfill as of the date of this Contract for the collection and/or extraction of LFG including, without limitation, the wells (vertical and horizontal) drilled into the Landfill, well heads, interconnecting pipes, header pipe, condensate drips, and interconnections to the Production System, along with any ancillary materials and equipment, as they may be modified or repaired from time to time.

Q. Pre-Existing Production System: means the facilities already existing at the Landfill as of the date of this Contract for the conveyance of LFG from the collection system to the Energy Recovery Facility including, without limitation, the main header pipe through which a blower creates suction to draw LFG from the Collection System, then the blower, filters, meters, and compressors, and interconnections to (but not including) the Flare or the Energy Recovery Facility's fuel supply line(s).

R. Production System: means the Pre-Existing Production System and the New Production System.

S. Project: means the LFGMS, Flare, and the Energy Recovery Facility, together with all related equipment and facilities and interconnections to water, sewer, and utilities. The Energy Recovery Facility may occupy up to one acre of the Landfill.

T. Project Records: are as defined in Section 4.1(i) herein.

U. Subcontractor: means any entity with whom the Company (or any Subgrantee) contracts with in order to perform services or provide equipment or materials in furtherance of the fulfillment of any obligation of the Company or any Subgrantee hereunder, including, without limitation, the Company's obligations to construct and operate the Project.

V. Subgrantee: is as defined in Section 12.3 herein.

W. Subgrantee's Equipment: is as defined in Section 12.3 herein.

X. Term: is as defined in Article V herein.

II. CONSTRUCTION OF PROJECT

2.1 Responsibility's of Company. The Company (and, with respect to the Energy Recovery Facility, the Subgrantee) is responsible for the design, permitting, financing and construction of the Project. The design and plan of incorporation of the Project facilities into the Landfill, construction procedures, operational and maintenance procedures, permit applications, and any material supplements or amendments to such plans, procedures, applications, authorizations, or agreements, shall be subject to prior review and written

approval by the Board for the sole purpose of ensuring consistency with any agreements, authorizations, or plans entered into, or required of, the Board, including this Contract and the Board's Landfill operations and governmental authorizations. Any such review shall be conducted promptly, within 60 days of receipt of the written submission by the Company, and approval will not be unreasonably withheld or denied.

2.2 Responsibilities of Board. The Board shall take all reasonable actions to assist and coordinate with the Company and any Subgrantee in (i) obtaining and maintaining any required governmental licenses, permits or other authorization necessary in connection with the construction, modification, operation and maintenance of the project in conformance with applicable law and regulations; and (ii) coordination of the design, construction, operation and maintenance of the Project with the operations of the Landfill.

2.3 Coordination of Project with Landfill Operations. During Construction of the Project, the Company shall take all reasonable actions to coordinate with the Board regarding any governmental authorization and/or operating proceedings applicable to the Landfill.

2.4 Construction Schedule. The initial Project is to be divided into two phases. The first phase is the construction of the LFGMS. The second phase is the construction of the Energy Recovery Facility. The initial LFGMS and Energy Recovery Facility will be substantially completed by April 30, 2003. Subsequently, the LFGMS and Energy Recovery Facility may be modified from time to time as the landfill expands.

III. GRANT OF GAS RIGHTS AND LICENSES.

3.1 Exclusive LFG Rights. The Board grants to the Company the exclusive license and right to extract, gather, process, produce, take, and use or sell, LFG from the Landfill, for the Term and upon the conditions set forth herein. The license and rights granted in this Section 3.1 are referenced to herein as the "Gas Rights." The extent of the real property from which the gas is produced to which the exclusive Gas Rights applies is more specifically identified in Attachment A hereto. In accepting this grant of license and rights, the Company is not obligated to extract or use any particular amount of LFG, other than such amounts of LFG as may be used by the energy recovery facility.

3.2 Grant of Licenses. The Board grants to the Company and the Subgrantee, together with their designated agents and contractors necessary for the construction, operation, maintenance, and repair of the Project, non-exclusive licenses within and upon the Landfill to: (i) access and enter upon the Landfill; (ii) construct, operate and maintain the Project, and (iii) to take actions required under this Contract or any permit or governmental authorization issued with respect to the Project, including those permits and authorizations governing the operation of the LFGMS and Flare. The extent of the real property over which the licenses granted under this Section 3.2 apply are more specifically identified in Attachment A hereto. The licenses granted in this Section 3.2 are referred to collectively herein as the "Licenses."

3.3 Quiet Enjoyment. The Board agrees that the Company and the Subgrantee, together with their designated agents and contractors shall and may peacefully enjoy the Gas Rights for the duration of the Term against all persons claiming by, through, or under the Board, provided that the Company complies with all of its obligations under this Contract, including the payment of sums herein recited to be paid by the Company and performs, or causes to be

performed, all of its covenants under this Contract. Further, the Board agrees that it will make no use, nor permit others to make any use, of the areas of the Landfill over which the Company has been given Licenses and/or Gas Rights under this Contract in any way that shall be inconsistent with, or detrimental to, the Company's free use of those areas for the purposes set forth in this Contract. The Gas Rights and Licenses shall run with, and be appurtenant to, the land and shall be binding on any successors of the Board.

3.4 Liens and Encumbrances.

(a) Liens of the Board. The Board shall keep the Gas Rights free from all liens and encumbrances that may be filed against or otherwise be applicable to the Gas Rights, except that the Board shall not be required to remove any liens or encumbrances that may be filed against, or otherwise be applicable to, the Gas Rights that result from any action or omission on the part of the Company or anyone acting by, through, or under the rights of the Company, or that do not impair in any respect the rights of the Company in the Gas Rights. If the Board shall fail to remove any such lien or encumbrance, or commence and in good faith diligently pursue legal action to remove any such lien or encumbrance, within sixty (60) days after receipt of written demand from the Company to so do, then the Company shall have the right, but not the obligation, to satisfy any claim giving rise to such lien or encumbrance. The cost thereof shall be paid by the Board to the Company immediately upon demand, and the Company shall be entitled to deduct any such costs that are billed and overdue, and not disputed by the Board, from payments required to be made by the Company to the Board hereunder.

(b) Liens of the Company. the Company shall keep the Gas Rights free from, and shall remove, all liens and encumbrances that may be filed against, or otherwise be applicable to, the Gas Rights, except for mortgages and other instruments permitted by the provisions of Article VIII of this Contract; provided, further, that the Company shall not be required to remove any liens or encumbrances that may be filed against, or otherwise be applicable to, the Gas Rights that result from any action or omission on the part of the Board or anyone acting by, through, or under the rights of the Board. If the Company shall fail to remove any such lien or encumbrance within sixty (60) days after receipt of written demand from the Board to do so, then the Board shall have the right, but not the obligation, to satisfy any claim giving rise to such lien or encumbrance. The cost thereof, including reasonable attorney fees and expenses, shall be paid by the Company to the Board immediately upon demand.

(c) Contesting Liens. Notwithstanding the requirements set forth in the preceding paragraphs (a) and (b), neither the Board nor the Company, as applicable, shall be required to pay any amounts associated with any such liens or encumbrances so long as (i) the obligated party is contesting, in good faith, at its expense, the existence, amount, or validity of such encumbrance or lien and continues diligently to so contest; (ii) such contest does not impair or otherwise interfere with the rights or interest of the other party; (iii) the obligated party provides, at its expense, a bond issued by a financially sound surety (or other security reasonably acceptable to the other party) for the amount of such lien or encumbrance; and (iv) such lien or encumbrance, or the contest thereof, will not expose the other party to any potential criminal liability.

3.5 Ownership of Project. For the Term, the Company (together with any Subgrantee) shall hold legal and equitable title to the Project. Such ownership shall be

regardless of the manner of installation or affixation of Project equipment or fixtures in or to the Landfill. The Company will at all times take and hold legal and equitable title to any and all LFG entering the LFGMS, and at no time shall the Board or any other entity have any right, title or interest in and to any LFG entering the LFGMS, or the subsequent use or sale thereof.

3.6 As-Is Condition/Warranty of Title. The Company acknowledges that it has inspected the Landfill, and understands that, except as set forth in this paragraph and in Section XI, the Board makes no representations or warranties of any kind as to the condition or composition of the Landfill or any LFG. The Company's right to take and use LFG is a right to the as-is, where-is condition of any such LFG. The Board warrants that it is lawfully seized in fee simple of the Landfill, that this Contract shall vest good and beneficial title in the Company to the Gas Rights, free and clear of any prior claims or encumbrances and that the Board and its successors will warrant and defend the rights and interests, including the Licenses, granted herein to the Company and its successors and assigns against all claims of ownership of the Gas Rights, and conflicting claims to there as covered by Licenses, made by any person.

3.7 Survival of Rights. The Board shall not enter into any future agreement with respect to the operation of the Landfill which impairs the Company's ability to perform its obligations under this Contract or which imposes any additional costs on the Company.

IV. USE OF RIGHTS AND LICENSES; MAINTENANCE.

Use of the Gas Rights and Licenses by the Company shall be specifically subject to the terms and conditions of this Article IV.

4.1 Operation and Maintenance of LFGMS, Energy Facility, and Flare.

(a) Operation. The Company agrees to operate the LFGMS and Flare, and the Company or any Subgrantee will operate the Energy Recovery Facility. The Company shall give the Board written notice of the satisfactory completion of the start-up and testing of the LFGMS and Flare, and the Company shall commence its operation of the LFGMS and Flare immediately thereafter. The Company or its Subgrantee shall give the Board written notice of the satisfactory start-up, testing and integration of the Energy Recovery facility with the LFGMS and Flare. Thereafter, the Company and its Subgrantee shall continuously operate the Project in accordance with all applicable laws, regulations, permits and orders and good industry practice for the Term hereof; provided, that the Board shall be responsible for the cost of any modifications pursuant to § 4,1(e) below.

(b) Maintenance. The Company agrees to maintain the Project in compliance with the Operations and Maintenance Plan, appended hereto as Attachment B. Except as provided in subparagraphs (a) and (e) of this Section 4.1, all modifications to the Project of every sort and nature, and associated costs and expenses, shall be the responsibility and obligation of the Company.

(c) Operational Compliance. the Company shall perform its obligation to design, construct, install and operate the Project in accordance with: (1) the terms and conditions of this Contract, (2) the final design and operation documents for the Project, (3) sound engineering, construction and operation practices, and (4) generally accepted industry standards, and (5) all

applicable federal, state and local laws, rules, regulations, orders and permits, including those permits governing the operation of the LFGMS and Flare, and including but not limited to any successor or additional federal, state and local laws, rules or regulations that may be promulgated by any governmental authority having jurisdiction over the Landfill, LFGMS, Flare or Energy Recovery Facility, provided that after completion, any modification of the LFGMS or Flare (or the operation thereof) required by any current or future laws or permits regarding LFG emissions shall be at the Board's expense, pursuant to paragraph (e) below.

(d) Water supply. The Board, at no charge to the Company, shall provide the Company adequate water supply to the site boundary of the Energy Recovery Facility, meeting The Company's requirements as set forth in Attachment C to this Contract. Condensate generated by the LFGMS shall be pumped into the existing leachate pond located at the Landfill at the Company's expense or disposed of by other means in conformance with all applicable laws and regulations.

(e) LFGMS Modification. In order to comply with current or future regulations regarding LFG emissions or migration, the LFGMS or Flare, or the operation thereof, may need to be modified. If subsequent to the ratification of this contract, a federal, state, or local statute, regulation or judicial or administrative decision would require Fauquier County to construct or to modify a LFGMS or Flare at the Landfill to specifications that do not comply with the LFGMS or Flare in operation at that time, then the costs of any such modifications to bring the LFGMS or Flare into compliance with such statute, regulation or judicial or administrative decision shall be paid by the Board. At the request of the Board the Company will undertake such required modifications, based on plans and specifications approved by the Board. The Board will pay all direct third-party costs and expenses associated with such modifications plus fifteen percent (15%) to cover the Company's internal costs and overhead, in addition to any incremental additional costs caused by amending LFGMS, Energy Recovery Facility or Flare operations in conformance with amended legal requirements. If any LFGMS modification creates additional LFG, so long as such additional LFG ("Excess LFG") (i) can hold a flame, (ii) does not cause average LFG methane content to fall below forty five percent (45%), and (iii) is determined by the Company not to create Hazardous Waste liabilities or other risks of use the Company shall use all reasonable efforts to take and sell such Excess LFG up to the capacity of the Energy Recovery Facility (if such Excess LFG can be used in Energy Recovery Facility operations as determined by the Energy Recovery Facility operator) and the Flare. Gross revenues associated with the use by the Energy Recovery Facility of Excess LFG shall be applied first to any documentable incremental costs of production associated with producing such Excess LFG, then to the Board to compensate the Board for its documented costs and expenses associated with the LFGMS expansion or modification, and upon full compensation of such costs incurred by the Board, then to the Company for its own use. To the extent such Excess LFG cannot be used profitably by the Energy Recovery Facility, the Company shall make available the Project's Flare for disposal of such Excess LFG up to the flaring capacity of the Flare, after first giving preference to all other LFG produced by the LFGMS. The Board is responsible for expanding the Flare capacity if necessary to accommodate Excess LFG produced by required modifications undertaken by the Board to the LFGMS to comply with the aforementioned federal or state statutes or regulations. Nothing in this contract shall be construed to require the Board to make any other modifications to the LFGMS, Flare, or Energy Recovery Facility or be responsible for the costs of such modifications. If the Board fails to meet any cost obligation under this paragraph, the Company may undertake such modification or

expansion, and the Board shall promptly reimburse the Company for all reasonable costs and expenses of the Company in undertaking and completing such modification or expansion. If the Board disputes the necessity of such a modification or expansion undertaken by the Company, the Board shall deliver an amount equal to all reasonable costs and expenses of the Company in undertaking and completing such modification or expansion to an escrow agent mutually acceptable to the parties. The dispute shall then be subject to resolution by a court of competent jurisdiction in the Commonwealth of Virginia.

4.2 Project Compliance. The Company shall build, operate and maintain the Project in compliance with all applicable laws, regulations, permits, licenses, authorizations, and agreements, throughout the Term of this contract; provided, however, that the Board (i) shall remain responsible for ensuring the Landfill's overall compliance with and any applicable LFG emission or migration laws or regulations, pursuant to Section 4.2(e) herein, and (ii) shall be responsible for the additional cost of any facility modification or change in facility operations resulting from a change in law regulation, permit or license pursuant to Section 4.1 (a) herein. The Company shall submit to the Board for its prior review and written approval (which review shall be conducted as described in the manner and for the specific purposes described in the above paragraph 2.1) any material amendment or modification of any Energy Recovery Facility permit, license, authorization, or agreement proposed by the Company prior to the submission of such proposed amendment or modification to the relevant agency or party. Any amendment or modification that does not materially affect Landfill operations shall not be subject to the prior written approval of the Board; provided that the Company shall notify the Board of any such non-material amendment or modification to any Energy Recovery Facility permit, license, authorization, or agreement.

4.3 Maintenance of the Company's Rights. The Board shall: (i) employ all reasonable means in order to transfer to and maintain in the Company the Gas Rights and Licenses, and any ancillary property rights that may be reasonably required to develop, construct, and operate the Project, and carry out the Company's obligations under this Contract; (ii) avoid taking any action that would result in a violation of any license, permit, approval or order required for the development, financing, construction, operation or maintenance of the Project; and (iii) use reasonable efforts to assist the Company in obtaining any additional governmental authorizations as may be required to develop and operate the Project.

4.4 Documentation. The Company, at its own cost and expense, shall maintain such books and records as are reasonably necessary to implement this Contract, and also shall maintain such books and records as are required by any federal, state, and local laws, regulations, permits or orders ("Project Records"). The Company shall at its own expense collect and provide available data from the LFGMS and Flare to assist the Board in filing all reports that currently must be filed by the Board with federal, state, or local agencies concerning the LFGMS and Flare. The Company agrees that the Board, or any duly authorized representative, shall, until the expiration of the three (3) years after final payment hereunder, have access to and the right to examine and copy any directly pertinent financial and operating records of the Company relating tot he operations of the Project. The Company further agrees to include in any subcontract for more than $10,000 entered into as a result of this Contract, a provision requiring the subcontractor to agree that the Board or any duly authorized representative shall, until the expiration of three (3) years after final payment under the

subcontract, have access to and the right to examine and copy any books or records of such subcontractor involving transactions related to the subcontract or this Contract. The period of access provided in this section for books and records which may relate to any litigation, dispute resolution, or settlement proceedings arising out of the performance of this Contract shall continue until any litigation, dispute resolution proceedings, settlement negotiations, claims, or appeals shall have been finally disposed of. For the purposes of this section, records shall include, but not be limited to, all records, data, plans, documents, correspondence, permits, and any orders and notices given or received from any government agency with reference to the design, installation or operation of the facility.

4.5 Exchange of Information. Upon execution of this Contract, the Board and the Company also shall establish procedures designed to keep each other informed of developments related to the Project on a timely basis.

4.6 Company as Sole Obligor. The Company, its successors, assigns and guarantors, shall be the sole obligors under any loan or credit document made in connection with Project financing. The Board agrees to execute documents reasonably required for Project construction or term financing, provided that such documents do not look beyond the interests of the Board in Project revenues, Project documents, agreements, and permits for the satisfaction of any claim or obligation with respect to Project financing.

4.7 Mutual Cooperation. The parties recognize the need for continued functional integration of the Project with the Landfill and landfilling operations. The parties understand and agree that each party shall provide reasonable assistance and cooperation to the other as may be required in order to develop, construct, install, repair, maintain, and operate the Project and preserve all authorizations applicable to the Project and the Landfill in the most cost-effective manner for the Project and the Landfill, and consistent with applicable law and the Board's responsibilities in owning and operating the Landfill, including modifications to this Contract reasonably made necessary by applicable law that are designed to carry out the parties' intents and purposes in entering into this Contract. Each party shall use good faith efforts to avoid interfering with the other party's operations and performance of its obligations at the Landfill, including the reasonable modification of operations or procedures to the extent practicable to avoid the imposition of an additional substantive costs on the other party in the performance of its obligations at the Landfill. Neither the Board nor the Company has the authority to undertake obligations on behalf of the other.

4.8 Right of Entry. The Board, its contractors, officers, employees, agents and invitees, shall have the right at any time to inspect the equipment and improvements at the Project. The Board shall make reasonable efforts to arrange inspection during normal business hours or at such other times as mutually agreed upon by parties hereto, pursuant to the Company’s reasonable terms and conditions so as to ensure the safety of entering personnel and to avoid unreasonable interference with the operation of the Project. Whenever practical, any such entry shall be upon not less than twenty-four (24) hours prior notice from the Board to the Company, except in the case of an emergency, in which case no prior notice shall be required.

V. TERM.

5.1 Initial Term. The Term of this Contract shall commence upon the Commencement Date, and shall continue until the earlier of: (i) twenty (20) years subsequent to the Commercial Operation Date, or (ii) the giving of written notice by the Company to the Board that in the opinion of the Company, the Landfill cannot produce commercially usable quantities of LFG to warrant the continuation of the Project as a viable, standalone commercial enterprise.

5.2 Extension of Term. The Term may be extended for two (2) additional five (5) year periods upon the mutual agreement of the parties, reached at least one year prior to the expiration of the initial Tern and the first the extended thereof.

5.3 Obligations Following Termination. Upon expiration or termination of the Contract, the Company shall have no continuing obligation under this Contract, except that (i) the Company shall fulfill any obligations that arose under the Contract up to the date of expiration or termination; and (ii) the Company shall take reasonable steps to cooperate and assist in the transfer of operation of the LFGMS and Flare by the Board as an LFG gathering and processing facility through the training of the Board personnel in the LFGMS's gas gathering operations, and the providing of available materials and data relevant to LFGMS gas gathering operations. The Company with the reasonable cooperation of the Board, shall within twelve months of the expiration of the Term or termination of this Contract, remove any Energy Recovery Facility equipment, including electric generating equipment, engines, generators and electric control equipment, and shall peaceably and quietly leave the Landfill, and shall leave the LFGMS and Flare intact and in compliance with applicable law and in good working order, normal wear and tear excepted. Subsequent to the Term or the termination of this Contract, the LFGMS and Flare shall become the property of the Board or its designees, without warranty of any kind or type from the Company regarding the condition or operation of the LFGMS or the Flare.

5.4 Option to Purchase. Upon termination of this contract, the Board shall have the option to purchase the Energy Recovery Facility and any other Company property (on the site) used for the Project at a reasonable (fair market) price agreed upon by the Board and Company.

VI. TERMINATION AND BREACH.

6.1 Termination by the Board. The Board will have the unilateral right to terminate this Contract and/or otherwise seek appropriate damages or other legal remedies under the following circumstances, each constituting an "Event of Default:"

(a) Abandonment. The permanent abandonment by the Company of the Project. the Company shall be deemed to have abandoned the Project upon a failure of the Company to operate the Project, or prosecute with reasonable diligence the repair of the Project or the resolution of circumstances that result in a cessation of Project operations, for a continuous period of twelve (12) months.

(b) Imposition of Charges. The actual imposition of any assessments, fees, or charges on the Board imposed as a direct result of Project installation or operation, which assessments are not paid in full by the Company within thirty (30) days of written notice from the

Board to the Company and all Lender(s) indicating that a final, unappealable action imposing such assessments, fees or charges has been made.

(c) Failure to Make Payments. The failure of the Company or a Subgrantee to make any payment due pursuant to Article VII of this Contract within thirty (30) days of receipt of a written notice from the Board to the Company (and any Subgrantee regarding Subgrantee Payments) and all Lender(s) that such payment is at least thirty (30) days overdue. The Company (or any Subgrantee) shall not be deemed to have failed to make a payment with respect to any disputed amounts that are the subject of Section 7.1(e).

(d) Failure to Operate or Maintain Consistent with Law. Within thirty (30) days after notification by the Board to the Company and its Lenders that the Company is not operating or maintaining the LFGMS or Flare in a manner that is in compliance in all material respects with applicable laws, regulations or permits, the Company has failed either to (i) bring the LFGMS and Flare into compliance or (ii) begin and diligently pursue actions that are reasonably calculated to bring the LFGMS and Flare into compliance. However, the Company shall not be deemed in breach pursuant to this paragraph (d) in the event that a failure of the Company to operate or maintain the LFGMS is caused by a failure of the Board to undertake a modification to the LFGMS pursuant to Section 4.2(e).

(e) Breach of Contract. Except as otherwise provided in this Section 6.1, in the event the Company fails to carry out its obligations under this Contract after written Notice from the Board, the Board's remedy shall be to seek such damages and/or orders compelling specific performance as a court of competent jurisdiction may award.

(f) Temporary Control of LFGMS. In addition to any other remedy hereunder, the Board may assume direct operational control over the operation of the LFGMS in the event that the Company fails to undertake and continuously pursue a cure of any material breach of its obligations to adhere to the LFGMS operation, maintenance and repair requirements of Section 4.1 and 4.2 hereof within seventy two (72) hours of a prior written notice from the Board to the Company's and all Lenders identified in the Company's then most recent written listing of Lender(s) to the Board stating that the Board in good faith believes that such a material breach has occurred and specific reasons therefor, and that such breach has resulted in either (i) an imminent threat to life or property; or (ii) a breach, or imminent breach, of any governmental authorization, law, regulation, permit or order governing the Landfill or the LFGMS. During any such period that the Board assumes control of the LFGMS, the Board shall use reasonable good faith efforts to continue to supply LFG from the LFGMS to the Energy Recovery Facility in the amounts requested by the Company, and otherwise coordinate operations with the Company's operations of the Energy Recovery Facility. The Board shall return operational control of the LFGMS to the Company upon a demonstration reasonably satisfactory to the Board that the alleged breach by the Company of its obligations has been cured, or will be cured pursuant to a plan of operation, maintenance or repair reasonably acceptable to the Board. If the Company and the Board cannot agree on a reasonable cure plan, the elements of a reasonable cure plan will be made subject to the determination of a court of competent jurisdiction as set forth herein. If the Company or any Lender does not cure within the period prescribed in Section 6.1(d), the Board may terminate this Contract pursuant to Section 6.1(d). All reasonable and documented out-of-pocket costs of the Board's assumption of operations pursuant to this Section 6.1 (f) shall be reimbursed by the Company as a condition of resumption of operations by the Company.

(g) New Contract. In the event that this Contract is terminated pursuant to this Section 6.1 or in connection with a bankruptcy of the Company, the Board shall, upon written request from any Lender(s) made within sixty (60) days of such termination, enter into, with a designee of said Lender(s), an agreement identical in all material respects to this Contract, provided that such Lender(s) or their designee cures all breaches and defaults of the Company capable of cure prior to the execution of said agreement. including all payment defaults. The Board shall allow the Lender(s) or their designee a reasonable time to cure any such curable default subsequent to the Board's receipt of notice regarding the desire for a new agreement. This Section 6.1 (g) shall survive any termination of this Contract.

6.2 Termination by the Company. The Company, or its Subgrantee, will have the unilateral right to terminate this Contract and/or otherwise seek appropriate damages or legal remedies under the following circumstances:

(a) On the occurrence (and failure to cure within 60 days of notice thereof) any breach of this Contract by the Board that has a material adverse effect on the Company or any Subgrantee.

(b) Closure of the Landfill prior to the end of the Term.

(c) In the event that the Company or any Subgrantee cannot secure or maintain a power sales agreement or other agreement providing for revenues from LFG combustion or processing on terms reasonably satisfactory to the Company or such Subgrantee, then the Company may terminate this Contract, with no further liability of either the Company or the Subgrantee, by giving written notice to the Board. Prior to the commencement of Energy Recovery Facility construction, the Company may terminate this Contract by written notice to the Board, with no further liability of either party, if the Company determines, in the exercise of its sole discretion, that: (i) the Energy Recovery Facility's construction cannot be financed on terms acceptable to the Company; or (ii) the Company cannot obtain or maintain necessary permits with respect to the Energy Recovery Facility; or (iii) the Project, or any portion thereof, cannot be profitably operated by the Company.

6.3 Early Termination by Board. The Board may terminate this Contract by written notice to the Company, with no further liability of either party, if the Board receives an opinion from the Virginia Resources Authority, its successor in interest or assigns, or the County's Bond Counsel to the effect that the terms of this contract conflict with the provisions of any agreement between the Board and the Virginia Resources Authority, its successor in interest or assigns. The parties agree that early termination as provided in this section may be exercised, if at all, only prior to August 1, 2002. Further, the parties agree that the Company shall be reimbursed for its sunk costs in the event such an early termination is exercised.

VII. PAYMENTS.

7.1 Payment Structure

(a) Initial Periodic Payments. Beginning for the calendar year following the Commercial Operation Date and continuing until December 31, 2005, the Company shall pay to the Board in further consideration for the Gas Rights and Licenses, Ten Thousand Dollars

($10,000) annually, in quarterly installments of Two Thousand Five Hundred Dollars ($2,500) each on the last business day of March, June, September and December of each year during the Term of the Agreement, and any extensions thereof.

(b) Subsequent Periodic Payments. Beginning on January 1, 2006, the Company shall pay to the Board in further consideration for the Gas rights and Licenses, an amount equal to the annual payment due from the prior calendar year adjusted by the consumer price index from that year, in equal quarterly installments on the last business day of March, June, September and December of each year during the Term of the Agreement, and any extensions thereof, provided, however, that no single year-to-year change shall exceed 5%.

(c) Payment of Amounts. All payments due and payable to the Board under this Contract shall be paid to the Board at the address set forth in Section 12.5 or as otherwise may be designated by the Board.

(d) Late Payments. Payments shall be made upon the date due as specified in § 7.1(a). If payment is not made when due, it shall be subject to a late payment penalty of 10% and shall bear interest at an annual rate of 10%.

7.2 Subordination. Notwithstanding any other provision of this Contract, the Board agrees that to the extent required by any Lender, payments due the Board under Section 7.1 of this Contract will be expressly subordinated in right of payment to the prior payment, in full, of: (i) any amount due pursuant to any agreements entered into by the Company for borrowed money and/or debt for, or in connection with the financing or refinancing of the Project including without limitation any loan agreements, or evidences thereof, (ii) State and local taxes, other than income taxes, incurred by the Project; (iii) Project operation and maintenance expenses; (iv) Project insurance premium expenses; and (v) payments to State or local agencies for fees and assessments related to the Project.

VIII. ENCUMBRANCE OF PROJECT PROPERTY.

8.1 Consent of the Board. Any reference to the Company in this Article 8 shall be expressly deemed to include any Subgrantee. The Company may encumber, mortgage rights, or hypothecate to any person or entity providing equity or debt financing ("Lender") by deed of trust or mortgage or other security instrument all or any part of the Company's interest in the (a) Project, (b) Project equipment, or (c) appurtenant facilities, property rights under this Contract. The Company may also assign, pledge, and set over to any Lender all rights of the Company in this Contract, any other agreement with the Board regarding the Project, and any governmental authorization, permit, or license regarding the Project. No such assignments or hypothecations shall relieve any obligation of the Company under this Contract.

8.2 Lender Rights

(a) Lender Rights. In addition to any other right provided to any Lender by other provisions of this Contract, any Lender shall have the right at any time during the term of this Contract to: (i) do or cause to be done any act or thing required of the Company under this Contract or any other agreement between the Company and the Board, and any such act or thing performed or caused to be performed by such Lender shall have the effect of having been done by the Company itself; (ii) realize on the security afforded such Lender by taking

possession of all or any portion of the Project and/or exercising foreclosure proceedings or power of sale or other remedy afforded in law or in equity or by security documents assigned to or entered into by the Lender; and (iii) subject to the restrictions noted in paragraph (b) of this Section, transfer, convey, or assign the interests of the Company under this Contract, and any other agreement between the Board and the Company regarding the Project (together, the "the Board/ Company Contracts") to any purchaser at any foreclosure or secured party sale, whether such sale be conducted pursuant to court order, a power of sale contained in the Lender mortgage or applicable law, and to acquire and succeed to the interest of the Company under the Board/ Company Contracts by virtue of any foreclosure or secured party sale, whether such sale be conducted pursuant to a court order, a power of sale contained in the Lender mortgage, or applicable law, or by virtue of a deed and/or bill of sale and assignment in lieu thereof. The Board shall grant any Lender or its authorized designee immediate access to the Landfill and the Project to the extent necessary to remedy any breach or default of the Company under this Contract or in exercise of the Lender's remedies under any security document. If Lender(s) are prohibited by any bankruptcy, insolvency, or other judicial proceeding from commencing foreclosure proceedings or other actions to preserve their secured interest(s) in the Project and the Board/Company Contract, any right of the Board to terminate the Contract for default shall be suspended for so long as the Lender(s) diligently pursues such proceedings and cures any default in the payment of monies due the Board.

(b) Successor Obligations. If any Lender or other third party acquires the Company's interests under the Board/Company Contracts as aforesaid in paragraph (a), such Lender or other third party shall accept in writing, and shall without further action be subject to, the same terms and conditions set forth in the Board/the Company Contracts, and shall be required to cure all defaults or breaches of the Company under this Contract capable of cure.

(c) Copies of Notices. The Board shall provide any Lender, of whose existence it has received written notice from the Company, with copies of all notices required to be given to the Company under this Contract simultaneously with the forwarding of such notice to the Company. No such notice shall be deemed effective absent the providing of a simultaneous copy to Lender. The Company shall designate in writing the Project Lender(s), if any, and shall provide to the Board in writing the name and address of such Lender(s).

IX. **INDEMNIFICATION AND INSURANCE.**

9.1 General Indemnification. To the extent permitted by law, each party agrees to indemnify, defend, and hold harmless the other party, its agents, officials, officers, and employees, from any and all losses, costs, expenses, claims, liabilities, actions, or damages, including liability for injuries to persons or damage to property of third persons, arising out of or in any way connected with the acts or omissions of the indemnifying party or its employees, officials, agents, contractors, Subcontractors and Subgrantee in constructing and operating the Project or the Landfill. Such indemnification shall not apply to claims, liabilities, actions, or other damages to the extent caused by any negligent or deliberate act or omission on the part of the other party or its employees, officials, agents, contractors or subcontractors.

9.2 Environmental Indemnities

(a) The Company. The Company agrees that it will not, and that it will not permit any of its agents, contractors, or employees to, store, use, release, discharge, or deposit on any portion of the Landfill any Hazardous Materials except in accordance with the Board's rules and regulations pertaining to the Landfill, and applicable law. The Company shall defend, indemnify and hold harmless the Board and the Board's officials, employees, agents, and contractors from and against any claims, losses, liability, damages, penalties, fines, costs, and expenses based on any failure of the Company or its agents, contractors, Subcontractors, Subgrantees or employees to adhere to the terms of this paragraph (a), after consultation with the Board, and shall undertake all measures necessary and appropriate to remedy any such failure. The indemnity of the Company set forth in this paragraph (a) shall survive the termination or expiration of this Contract.

(b) The Board. The Board understands and agrees that solely by virtue of entry upon the Landfill and the taking of actions authorized by or consistent with this Contract, neither the Company nor any of its Lenders, agents, contractors, employees, directors, or officers shall have, or shall be deemed to have, in any way participated in the operation of the Landfill or assumed any liability or obligation associated with materials of any type or description (including Hazardous Materials) deposited, stored, or received on or within the Landfill by any entity other than the Company, including the Board. The Company shall at no time have any control over or responsibility for the disposal of any wastes or materials at the Landfill. To the extent permitted by law, the Board hereby agrees to defend, indemnify, and hold harmless the Company and its officers, directors, employees, agents, contractors, and any Lender(s), from and against any claims, losses, liability, damages, penalties, fines, costs, and expenses to the extent based on (i) the presence of any Hazardous Materials in, on, or within the Landfill, except if the presence of such Hazardous Materials is directly attributable to the Company or its employees, officers, directors, agents, subcontractors or contractors; (ii) the failure of the Landfill or the Board to comply with any Federal, State, or local law or regulation regarding the regulation of the environment, disposition of materials, or operation and maintenance of the Landfill.

9.3 Maintenance Bond: the Company agrees to obtain within 30 days from the Commencement Date and maintain throughout the Term a maintenance bond, from a surety satisfactory to the Board, or post a letter of credit, to remain in effect until six months after the end of the Term, in the amount estimated by the Board to represent three (3) years' cost of maintenance of the Collection System and Flare to secure the Company's obligation to operate and maintain the Collection System and Flare in accordance with the terms of this Contract. The initial amount of the Maintenance Bond shall be $150,000. The Board may require increases to the Maintenance Bond or letter of credit, no more frequently than once every three years, and the amount of any increase is limited to the equivalent of three percent (3%) per year.

9.4 Removal Bond: Within 30 days after completion of construction or installation of the Energy Recovery Facility, the Company agrees to obtain and maintain throughout the Term a removal bond, from a surety satisfactory to the Board, or post a letter of credit, to remain in effect until eighteen (18) months after the end of the Term, to secure the Company's obligation to remove the Energy Recovery Facility as required by this Contract, and is intended to cover the costs of removal of the Energy Recovery Facility by the Board should the Company default in this obligation. The initial amount of the bond or letter of credit shall be $20,000. The Board may require increases to the Removal Bond or letter of credit, no more frequently than once every three years, and the amount of any increase is limited to the equivalent of three percent (3%) per year.

9.5 Insurance

(a) Liability. The Company covenants and agrees to maintain necessary and appropriate commercial general liability insurance in an amount not less than $1,000,000 combined single limit, with an excess liability policy of at least $2,000,000, which excess coverage insurance may be umbrella coverage, covering injury to property or persons which may arise as a result of activities at the Project, and naming the Board as an additional insured The Company shall provide the Board with evidence of such insurance prior to the commencement of Project construction, and the policies shall contain an endorsement to the effect that any cancellation or material change affecting the interest of the Board shall not be effective until 30 calendar days after notice to the Board or in accordance with Virginia law, whichever period is longer. The Company shall carry such insurance with one or more good and solvent companies licensed to do business in the Commonwealth of Virginia, selected by the Company and otherwise reasonably satisfactory to the Board.

(b) Casualty. The Company shall carry insurance (which during construction of the Project may be builder's risk completed value form or other comparable coverage) against all risks of physical damage, including loss by fire, flood, storm, earthquake, vandalism, theft, and such other risks as may be included in the standard all-risk form of coverage from time to time available, in an amount which is not less than the book value of the Project, and which coverage shall be exclusive to the Project, and naming the Board as an additional insured.

(c) Employees. The Company shall carry and maintain for its employees workers compensation and employers liability insurance as is required by Virginia or federal law, and shall maintain and shall require all contractors performing work at the Project or the Landfill to obtain and maintain such required insurance.

(d) Automobiles. The Company shall carry automobile insurance for owned, non-owned and hired vehicles. The minimum limit of liability carried on such insurance shall be $1,000,000 each accident, combined single limit for bodily injury and property damage.

(e) Deductibles. Any insurance required to be provided by the Company pursuant to this Contract may contain deductibles of not greater than (i) $75,000 for commercial general liability insurance (ii) $100,000 for property damage insurance on machinery, fire and extended coverage; and (iii) $100,000 property damage insurance on earthquake and flood, and may be provided by blanket, umbrella, or excess coverage insurance covering the Project and other locations. The Company will be responsible for the payment of all deductibles. To the extent any insurance required hereunder is not obtainable on commercially reasonable terms, the Company shall so notify the Board, and the parties together with any Lender shall, in good faith determine alternative insurance requirements. Any dispute regarding such requirements shall be resolved under the disputes resolution provisions of Section 12.16.

(f) Copies. The Company shall furnish the Board with a duplicate original or agent certified copy of or certificate evidencing any and all current policies maintained by the Company to satisfy the provisions of this Section 9.5. The Company shall provide the Board with copies of certificates of renewal of any insurance required hereunder prior to the expiration of any required policy. All policies required of the Company hereunder are subject to Lender approval.

9.6 Damage or Destruction of the Project

(a) Replacement. Subject to paragraph (b) below, if the Project shall be damaged or destroyed (in whole or in part) at any time during the term of this Contract, the Company's sole obligation shall be to use so much of the net proceeds of any insurance on the Project as may be necessary to promptly replace, repair, rebuild or restore the Project to substantially the same condition and value as existed prior to such damage or destruction.

(b) Settlement and Discontinuance. The right to settle and adjust all claims in excess of $15,000 under any policies of insurance shall be subject to the approval of the Lender(s). The parties understand that a mortgage and security interest in the net proceeds of insurance carried pursuant to the provisions of this Section may be granted by the Company to the Lender. Notwithstanding paragraph (a) above, if the Project shall be damaged or destroyed (in whole or in part) at any time during the terms of this Contract, resulting from any cause other than the Company's intentional or negligent failure to perform its duties under this Contract, and the Company or any Lender determines that repair or replacement of the Project is not commercially justified, with Lenders' approval, the Company shall apply the available net proceeds of any insurance on the Project first to Project debt service, and then to amounts due the Board as of the date of Project destruction. Upon payment to the Board of such amounts, this Contract shall terminate with no further liability of either Party.

X. TRANSFER AND CONDEMNATION.

10.1 Condemnation of Project. Should title or possession of the whole of the Project be taken by a duly constituted authority in condemnation proceedings or should a partial taking in the reasonable opinion of the Company render the remaining portion of the Project unfit for its intended use, then the Company may at its election terminate this Contract by notice to the Board given within sixty (60) days from the date of such taking; provided, that the Company may remove such Project equipment and shall provide to the Board title in the LFGMS in the same manner as prescribed in Article V hereof regarding the expiration of the Term.

10.2 Awards and Damages. All damages for condemnation of all or part of the Project shall be allocated first to the retirement of any financing secured by Project revenues, and thereafter to the Company. The Company shall be entitled to bring a separate claim against the condemning entity for reasonable removal and relocation costs of any removable property that the Company has the right to remove.

10.3 No Transfer. The Board covenants not to institute, advocate, or pursue any alteration, transfer, termination, or condemnation of the Project for the term of this Contract, except to the extent specifically agreed to by the Company.

XI. REPRESENTATIONS, WARRANTIES, AND COVENANTS.

11.1 Representations, Warranties, and Covenants of the Board. The Board hereby represents, warrants, and covenants to and with the Company that as of the date of execution of this Contract and thereafter:

(a) Existence. The Board is a body corporate and politic duly organized, validly existing, and in good standing under the laws of the Commonwealth of Virginia. The Board has

the power and lawful authority to enter into and perform its obligations under this Contract and any other documents required by this Contract to be delivered by the Board (collectively the "the Board Documents").

(b) Authorization. The execution, delivery, and performance by the Board of and under the Board Documents have been duly authorized by all necessary action and do not and will not violate any provision of law or violate any provision of its charter or result in a material breach or default under any agreement, indenture, or instrument of which it is a party or by which its properties may be bound or affected.

(c) Validity of Documents. The Board Documents, when duly executed and delivered, will constitute valid and legally binding obligations of the Board enforceable in accordance with their terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally or (ii) application of general principles of equity including availability of specific performance as a remedy.

(d) Litigation. There are no actions, suits, or proceedings pending or, to the best of the Board's knowledge, threatened against the Board or any of the Board's properties before any court or governmental department, commission, board, bureau, agency, or instrumentality that, if determined adversely to the Board, would have a material adverse effect on the transactions contemplated by the Board Documents.

(e) Prior Contracts. Any and all agreements made by the Board and addressing substantially the same subject matter of this Contract have been rightfully terminated prior to the date hereof.

11.2 Representations, Warranties, and Covenants of the Company. The Company hereby represents, warrants, and covenants to and with the Board as of the date of execution of this Contract and thereafter:

(a) Existence. The Company is a limited liability corporation duly organized, validly existing, and in good standing under the laws of the State of Delaware and is or prior to the commencement of operations will be licensed to do business in the Commonwealth of Virginia. The Company has the corporate power and lawful authority to enter into and perform its obligations under this Contract and any other documents required by this Contract to be delivered by the Company (collectively the "Company Documents").

(b) Authorization. The execution, delivery, and performance by the Company of and under the Company Documents have been duly authorized by all necessary corporate action, do not and will not violate any provision of law, and do not and will not violate any provision of its charter or bylaws or result in a material breach of or constitute a material default under any agreement, indenture, or instrument of which it is a party or by which it or its properties may be bound or affected.

(c) Validity of Documents. The Company Documents, when duly executed and delivered, will constitute valid and legally binding obligations of the Company enforceable in accordance with their terms, except as such enforceability may be limited by (i) bankruptcy, insolvency, or other similar laws affecting the enforcement of creditors' rights generally or (ii)

application of general principles or equity including availability of specific performance as a remedy.

(d) Litigation. There are no actions, suits, or proceedings pending or threatened against the Company or any of its properties before any court or governmental department, commission, board, bureau, agency, or instrumentality that, if determined adversely to it, would have a material adverse effect on the transactions contemplated by the Company Documents.

11.3 Representations and Warranties - General. Each party acknowledges that its representations and warranties as set forth above will be relied upon by the other in entering into and performing under this Contract. The representations and warranties contained in this Article shall survive the termination of this Contract. The Company and the Board each shall, to the extent permitted by law: (i) indemnify and hold the other harmless from any loss, damage, liability, and reasonable expense arising, or in any manner resulting, from any failure in connection with the representations and warranties made by one to the other; (ii) defend at its sole cost and expense, including but not limited to reasonable counsel fees, any suits or other proceedings brought on account thereof against the other or against any property assigned or transferred to the other hereunder; and (iii) satisfy all judgments that may in connection therewith be incurred by or rendered against the other or against any property assigned or transferred to the other hereunder provided, however, that indemnity shall not be required if the claim of indemnity is based on an action, omission, fault, or negligence of the party requesting indemnity.

XII. **MISCELLANEOUS PROVISIONS.**

12.1 Effective Date. This Contract shall become an effective, binding agreement as of the Commencement Date, upon the full execution of this Contract by each party hereto.

12.2 Force Majeure. Should the performance of any act required by this Contract to be performed by either the Board or the Company (inclusive of the construction schedule set forth in Section 2.4 and any other deadline or Milestone set forth in the Milestone Schedule, but except for the obligation to make payments) be prevented or delayed by reason of any acts of God, strike, lock-out, labor problems, inability to secure materials, unreasonable delay in the issuance of licenses, permits or other necessary authorizations for the siting, construction, operation or maintenance of the project, change in governmental laws or regulations, or any other cause beyond the reasonable control of the party required to perform the act and if such prohibition or delay could not have been avoided by the exercise of reasonable foresight or overcome by the exercise of reasonable diligence, the time for performance of the act will be extended for a period equivalent to the period of delay, and thereafter for a reasonable time under the circumstances, and performance of the act during the period of delay will be excused. The party claiming force majeure shall notify the other party in writing within ten (10) days of the occurrence of the event and shall use all reasonable efforts to resume performance as soon as possible.

12.3 Assignment and Subgrant. Except as elsewhere provided in this Contract, the Company may not, without first obtaining the prior written consent of the Board (which consent shall not be unreasonably withheld) sell, assign, transfer, or Subgrant any or all of its rights, title, interests, or obligations in, on, to, and under this Contract and the Project.

12.4 Actions by the Company. Whenever any action is required or permitted to be taken by the Company under the terms of this Contract, such action may be taken and performed by any authorized officer, director, or other representative of the Company, a Lender, or authorized agent of the Company.

12.5 Notices. All notices or other communication required or permitted hereunder shall be deemed given when received and, unless otherwise provided herein, shall be in writing, shall be sent by nationally recognized overnight courier service or sent by registered or certified mail, return receipt requested, deposited in the United States mail, postage prepaid, addressed to the parties at the addresses set forth below, and shall be deemed received upon the sooner of (i) the date actually received; or (ii) the fifth business day following mailing by registered or certified mail.

To The Company: PO Box 1017, Warrenton, Virginia 20188

With copy to: Lenders of Record of which the Board has received written notice.

To the Board: County Administration, 40 Culpeper Street, 4th Floor, Warrenton, Virginia 20186

Notice of change of address shall be given by written notice in the manner detailed in this Section.

12.6 Successors and Assigns. All the terms and provisions of this Contract shall be binding upon, inure to the benefit of, and be enforceable by the successors and permitted assigns of the parties hereto.

12.7 Further Assurances. The parties agree to perform all such acts (including without limitation executing and delivering instruments and documents) as reasonably may be necessary to fully effectuate the intent and each and all of the purposes of this Contract, including consents to any assignments, transfers, subgrants, or easements permitted hereunder. This Contract, or a memorandum or notice of this Contract, may be recorded by either party. The Company and the Board each further agree that it shall, at any time, and from time to time during the term of this Contract, and upon not less than thirty (30) days' prior written request by the other party, execute, acknowledge, and deliver to the requesting party a statement in writing certifying that this Contract is unmodified and in full force and effect (or if there have been any modifications, that the same is in full force and effect as modified and stating the modifications). This statement shall also state the dates on which any payments have been paid and that there are no defaults existing or that defaults exist and the nature of such defaults.

12.8 Construction of Contract

(a) Governing Law. The terms and provisions of this Contract shall be construed in accordance with the laws of the Commonwealth of Virginia

(b) Interpretation. The parties agree that the terms and provisions of this Contract embody their mutual intent and that such terms and conditions are not to be construed more liberally in favor of, nor more strictly against, either party. To the extent the mutual covenants of

the parties under this Contract create obligations that extend beyond the termination or expiration of this Contract, the applicable provisions of this Contract shall be deemed to survive such termination or expiration for the limited purpose of enforcing such covenants and obligations in accordance with the terms of this Contract.

(c) Partial Invalidity. If any term or provision of this Contract, or the application thereof to any person or circumstances, shall, to any extent, be invalid or unenforceable, the remainder of this Contract or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each remaining term and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

12.9 Counterparts. This Contract may be executed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

12.10 Entire Contract. The provisions of this Contract and the attached Exhibits constitute the entire understanding and agreement between the parties regarding the subject matter hereof, supersede entirely all prior understandings, agreements or representations regarding the subject matter hereof, whether written or oral, and may not be altered or amended except by an instrument in writing signed by the parties, and approved by any Lender(s). The parties each acknowledge and agree that no representation, warranty, or inducement has been made to it regarding the rights set forth in this Contract which is not expressly set forth in this Contract and the attached Exhibits.

12.11 No Partnership. Nothing contained in this Contract shall be construed to create any association, trust, partnership, or joint venture or impose a trust or partnership, duty, obligation, or liability or an agency relationship on, or with regard to, either party. Neither party hereto shall have the right to bind or obligate the other in any way or manner unless otherwise provided for herein.

12.12 Waiver. No failure or delay of any party to exercise any power or right under this Contract shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such right or power, preclude any other or further exercise thereof or the exercise of any other right or power.

12.13 Confidential Information. To the extent permitted by law (including, but not limited to, the Virginia Freedom of Information Act., §2.1-340, et seq., Va. Code Ann.), either party may designate any data, information, reports, or documents provided to the other as "Confidential Information." Except as required by applicable law, neither party shall, without the prior written consent of the other party, disclose any Confidential Information obtained from the other party to any third parties other than to any Lender and prospective Lender for the Project, consultants, or to employees who have agreed to keep such information confidential as contemplated by this Contract and who need the information to assist either party with the rights and obligations contemplated herein.

12.14 Third Party Beneficiaries. This Contract is intended to be solely for the benefit of the parties hereto and their permitted successors and permitted assignees and is not intended to and shall not confer any rights or benefits on any other third party not a signatory hereto;

except as provided with respect to any Lender, which Lender(s) shall be deemed capable of enforcing the rights and interests granted Lender(s) herein.

12.15 Limitation on Remedy. It is agreed and understood between the parties hereto that there shall be no personal liability on the part of the officials and officers of the Board, or the Company, or any successor in interest or designees thereof, with respect to any of the terms, covenants, and conditions of this Contract, except that which is available under the Code of Virginia and common law against public officials and officers or those of a limited liability company.

12.16 Claims/Disputes. In accordance with §11-69, Va. Code Ann., this provision shall be followed for consideration and handling of all claims by the Company under this Contract. This paragraph shall afford the Company a mechanism to receive a determination of the Board, rather than a lower-level official of Fauquier County, on each claim, as provided by § 11-69, Va. Code Ann. In the event that the Board makes a determination on a claim with which the Company does not agree, then a dispute will have arisen between the parties which is to be submitted to a court of competent jurisdiction for an impartial resolution, as provided by §11-70, Va. Code Ann. This section does not set up an administrative appeals procedure. Section 11-71, Va. Code Ann., is not applicable to this Contract, and under no circumstances is this paragraph to be construed as an administrative appeals procedure governed by §11-71, Va. Code Ann.

(a) Notice of intent to submit a claim setting forth the bases for any claim shall be submitted in writing within ten (10) days after the occurrence of the event giving rise to the claim, or within ten (10) days of discovering the conditions giving rise to the claim, whichever is later. In no event shall any claim arising out of this Contract be filed more than 10 days after the expiration of the Term.

(b) Claims by the Company with respect to this Contract shall be submitted in writing in the first instance for consideration by the Director of Environmental Services (hereinafter Director). The Directors' decision shall be made in writing with ten (10) days from the receipt of the Claim from the Company. If the Company is not satisfied with the decision or resolution of the Director, the Company may direct its Claim to the County Administrator, or in his absence to his designee. The County Administrator will render a written decision within ten (10) day of receipt of the Claim.

(c) If the Company is not satisfied with the County Administrator's decision, it may submit its Claim to the Board of County Supervisors within 30 days of receiving the County Administrator's decision. Claims are submitted to the Board by delivering a copy of the Claim to the County Administrator, or his designee, along with a request for Board determination of the Claim. The Board shall consider the Claim as provided by § 15.1-550 *et seq.*, VA Code Ann., and render a decision within forty days (40) days of the receipt of the Claim.

(d) If the Company is not satisfied with the decision of the Board on its Claim, then a dispute exists between the parties, which may be resolved by a court of competent jurisdiction pursuant to §11-70, Va. Code Ann.

(e) Should any decision maker designated under this procedure fail to make a decision within the time period specified, then the Claim is deemed to have been denied or disallowed by that decision maker.

(f) Pending a final determination of a Claim or dispute, the Company will proceed diligently with the performance of its obligations under this Contract.

(g) In accordance with the provisions of §11-69, VA Code Ann., full compliance with this procedure shall be a precondition to the filing of any lawsuit by the Company against the Board arising out of this Contract.

12.17. Discrimination. During the performance of this Contract, the Company agrees as follows:

a. It will not discriminate unlawfully against any employee or applicant for employment because of race, religion, color, sex, or national origin,

b. The Company, in all solicitations or advertisements for employees placed by or on behalf of the Company, will state that it is an equal opportunity employer.

c. Notices, advertisements, and solicitations placed in accordance with Federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Company will include the provisions of the foregoing paragraphs a., b., and c. in every subcontract or purchase order over $ 10,000 so that the provisions will be binding upon each such subcontractor or vendor.

12.18. Non-appropriation of Funds. The obligation of the Board for payment of any costs or expenses under this agreement is subject to the lawful appropriation of funds. Should the Board not appropriate funds necessary to meet its obligations this contract shall be null and void and the parties released, without penalty, from any and all liability.

IN WITNESS WHEREOF, the parties have executed this Contract as set forth below.

BOARD OF COUNTY
SUPERVISORS OF FAUQUIER
COUNTY, VIRGINIA

By:_____

FAUQUIER LANDFILL GAS, LLC.

By: _____

ATTACHMENT A

DESCRIPTION OF THE FAUQUIER COUNTY LANDFILL
FAUQUIER COUNTY, VIRGINIA

[TO BE SUPPLIED]

PROPOSED ENERGY RECOVERY FACILITY LOCATION MAP

[TO BE SUPPLIED]

ATTACHMENT B

PLAN AND CONTRACT OPERATOR SCOPE OF SERVICES
FOR THE OPERATION AND MAINTENANCE
OF THE LANDFILL GASS MANAGEMENT SYSTEM
AT THE FAUQUIER COUNTY LANDFILL
WARRENTON COUNTY, VIRGINIA

[TO BE SUPPLIED]

ATTACHMENT C

WATER SUPPLY REQUIREMENTS

The Project does not require a continuous water supply but will require use of the exisiting hose bib located in the recycling building to allow for the intermittant use of water for cleaning purposes.